

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

08-cr-87-bbc

v.

COREY THOMAS,

Defendant.

Defendant Corey Thomas has filed a notice of appeal from the September 27, 2011 order denying his motion for a new trial under Fed. R. Crim. P. 33(b). His notice of appeal was not accompanied by the \$455 fee for filing an appeal. 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Therefore, I construe it as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915. According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good

faith. Defendant's allegations in support of a new trial are not wholly frivolous. A reasonable person could suppose that they have some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

IT IS ORDERED that defendant Corey Thomas's request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 14th day of October, 2011.

BY THE COURT:

Barbara B. Crabb
BARBARA B. CRABB
District Judge